IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 25953 of 2007(M)

PETITIONER:

M.M.CHANDRASEKHARAN NAIR,
GOVERNMENT LEPRACY HOSPITAL,
KORATTY P.O., TRICHUR DISTRICT.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:

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1. THE SUPERINTENDENT OF GOVERNMENT
LEPRACY HOSPITAL, KORATTY P.O.,
TRICHUR DISTRICT.

2. THE GOVERNMENT LEPRACY HOSPITAL
PATIENTS CO-OPERATIVE SOCIETY LTD NO.678,
KORATTY P.O., REPRESENTED BY ITS SECRETARY.

3. THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES(GENERAL),
IRINJALAKKUDA.

BY GOVERNMENT PLEADER SRI. P.K. RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC. 25953/2007.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE REPRESENTATION DATED 20.8.2007.

K.M.JOSEPH, J.

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WP.(C) No.25953 of 2007

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Dated this the 25th day of September, 2007

JUDGMENT

Petitioner has approached this court praying for a direction to respondents 1 and 3 to conduct public auction after proper publication for cutting and removing the trees standing in the hospital premises. He also seeks a declaration that the respondent has no authority to cut and remove the trees in the leasehold property belonging to Government.

2. Heard counsel appearing for the parties. Case of the petitioner in brief is as follows:

Petitioner is a member of the second respondent Society. The members of the Society consists of Leprosy patients at the Government Leprosy Hospital, Koratty. It was formed for the welfare of the patients. It is the further case that the hospital is situated in a land which belongs to the Government. The total area of the land is 110 acres. The Society has no right to cut or remove the trees, it is stated. It is also stated that at the instance of the present committee 50

tons of wood was cut and sold to third parties. It is stated that the society has made a request to the Superintendent to cut and remove 65 trees. Petitioner and other members thereupon filed Ext.P4 before the Superintendent. In such circumstances the petitioner has approached this court. Case of the petitioner is that the Society has only lease hold right and no power to cut and remove the trees in the hospital premises and the standing trees in the compound belongs to the Government and the Society has got only a lease hold right and the right vested with the Society is only to the extent of taking yield from the trees.

3. The first respondent has filed a counter affidavit. Therein it is stated as follows:

The yields of the trees are being taken by the Co-operative Society and they are remitting an yearly compensation of Rs.15,000/- . The Society is given contract for the supply of dietary articles. The Society is empowered only to take the yields of the trees. It is the usual practice to conduct auction by the Superintendent for cutting and removing wind fallen trees. According to available sources no instance

of cutting and removing of trees was happened without the sanction of the Superintendent. The statement furnished by the petitioner is not true. The Society has approached the Superintendent of this hospital to get sanction for the cutting and removing of 65 various trees which were dry and wind fallen. As per existing rules we have requested the forest authorities to get valuation certificate so as to conduct auction for the disposal. No body will be allowed to cut and remove the trees without proper procedure, which is being implemented as per standing rules. As soon as the receipt of the petition by the petitioner, the first respondent had conducted an inquiry and it revealed that no such instance was happened. The cutting and disposal of the trees will be done only by exercising existing Government Order. The first respondent has made sure that the wood, which is supplied by the Society, as a part of the diet supply did not belong to the hospital campus as stated by the petitioner.

In the light of the stand taken by the first respondent that cutting and disposal of trees will be done only as per the existing Government

orders, I feel that the said stand can be recorded. Therefore I record the stand of the Government and this writ petition is closed recording the stand taken in the counter affidavit.

(K.M. JOSEPH, JUDGE)

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